

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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JAMES DAVID MCBROOM,

Plaintiff,

v.

MINNESOTA DEPARTMENT OF  
CORRECTIONS, COMMISSIONER  
TOM ROY, MINNESOTA CORRECTIONAL  
FACILITY – OAK PARK HEIGHTS AND  
FORMER WARDEN KENT  
GRANDLIENARD, CORIZON HEALTH,  
INC., STEPHEN JOSEPH CRAANE, KEVIN  
MONIO, NATALIE LESEMAN

Defendants.

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Case No. 15-cv-2791 (PAM/SER)

**REPORT & RECOMMENDATION**

Plaintiff James David McBroom, filed a complaint seeking relief under 42 U.S.C. § 1983 for violations of his constitutional rights. In an order dated September 9, 2015, this Court granted McBroom’s IFP application. *See* ECF No. 12. Among the documents McBroom filed when he initiated this action was a “Motion to Return 105 days of goodtime credits to Petitioner.” ECF No. 4. The Court recommends that McBroom’s motion for good-time credits be denied without prejudice.

“[H]abeas corpus, not § 1983, is the exclusive federal remedy when a state prisoner seeks restoration of good time credits taken away by a prison disciplinary proceeding.” *Portley-El v. Brill*, 288 F.3d 1063, 1066 (8<sup>th</sup> Cir. 2002) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 488-92 (1973) and *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994)). McBroom filed such a habeas

petition before this Court previously, which was dismissed without prejudice for failure to exhaust state court remedies. Report and Recommendation, *McBroom v. MCF Oak Park Heights*, Civ. No. 14-3124 (PAM/SER) (D.Minn. Oct. 22, 2014), ECF No. 14, 18. As indicated in that case, McBroom may return to this Court with a new habeas petition once he has exhausted his state court remedies for the good time credits. The other claims in this case remain pending.

#### RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED THAT Plaintiff McBroom's motion for good time credits be DENIED WITHOUT PREJUDICE.

Dated: November 30, 2015

s/Steven E Rau  
Steven E. Rau  
U.S. Magistrate Judge

#### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.